

ROBERT E. LATTA

5TH DISTRICT, OHIO

DEPUTY WHIP

COMMITTEE ON
ENERGY AND COMMERCE

SUBCOMMITTEE ON
COMMUNICATIONS AND TECHNOLOGY
VICE CHAIRMAN

SUBCOMMITTEE ON
ENERGY AND POWER

SUBCOMMITTEE ON
ENVIRONMENT AND THE ECONOMY

173

Congress of the United States

House of Representatives

Washington, DC 20515-3505

WASHINGTON OFFICE:

2448 RAYBURN HOUSE OFFICE BUILDING
(202) 225-6405

DISTRICT OFFICES:

1045 NORTH MAIN STREET
SUITE 6
BOWLING GREEN, OH 43402
(419) 354-8700

101 CLINTON STREET
SUITE 1200
DEFIANCE, OH 43512
(419) 782-1996

318 DORNEY PLAZA
ROOM 302
FINDLAY, OH 45840
(419) 422-7791

February 17, 2016

Received & Inspected

MAR 08 2016

FCC Mail Room

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

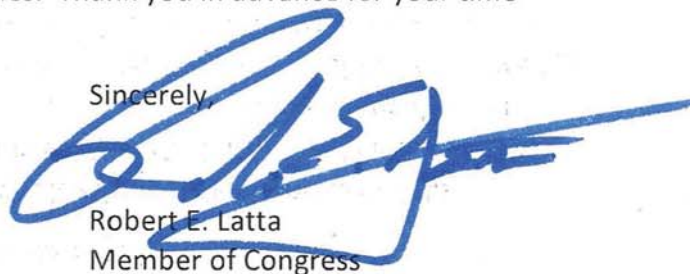
Dear Chairman Wheeler:

Thank you for recently taking time out of your busy schedule to speak to the members of the Rural Telecommunications Working Group. I write today to follow-up on our discussion regarding telephone townhalls. A recent Supreme Court case requires the FCC to revisit its FAQ on its guidance to members of Congress on telephone townhalls.

As you recall, there was confusion regarding the legality of telephone townhalls following a House Energy and Commerce hearing on July 28, 2015. Immediately following that hearing, the FCC issued an FAQ document advising Members that telephone townhalls are in fact permissible, but making such calls to mobile phones is illegal under the TCPA. The TCPA, by its very language, makes clear that the statute does not apply to governmental entities in its definition of a "person" which includes an "individual, partnership, joint-stock company, trust or corporation." Further, in its recent *Campbell-Ewald v. Gomez* decision issued on January 20, 2016, the Supreme Court acknowledged that the TCPA does not apply to the United States Government and its agencies or to contractors working on behalf of, and as directed by, the government.

As members of Congress strive to better communicate with our constituents, I urge the FCC to take swift action to rectify these inconsistencies. Thank you in advance for your time and consideration. I look forward to your reply.

Sincerely,



Robert E. Latta
Member of Congress

Received & Inspected

MAR 08 2016

FCC Mail Room



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

March 16, 2016

The Honorable Robert E. Latta
U.S. House of Representatives
2448 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Latta:

Thank you for your letter regarding the application of the Telephone Consumer Protection Act (TCPA) to telephone town hall technologies. Your views are very important and will be included in the record of the Commission's proceeding

The TCPA requires, among other things, that a "person" not make autodialed or prerecorded non-emergency calls to wireless telephone numbers in the absence of prior express consent. A petition for declaratory ruling filed by Broadnet Teleservices LLC asks the Commission to clarify whether the TCPA applies to calls made by or on behalf of a federal, state, or local governmental entity. Its petition describes how Members of Congress, among others, use automated telephone town hall technology to communicate with citizens on a variety of issues. Broadnet argues that the term "person" as used in the TCPA does not include governmental entities and that the TCPA therefore does not apply to calls made by or on behalf of such entities. Two other petitioners, RTI International and the National Employment Network Association, have raised similar issues. As you note, the Supreme Court in *Campbell-Ewald v. Gomez* recently addressed the application of the TCPA to the federal government and its contractors.

In response, this week I circulated to my fellow Commissioners a proposed Declaratory Ruling on the Broadnet petition that would, if adopted, clarify whether the TCPA applies to calls made by federal government officials when they are acting in their official capacities. It would also address the work of contractors who are acting as agents of the federal government. The draft decision discusses both the meaning of the term "person" in the TCPA and how the Supreme Court's *Campbell-Ewald* decision applies to the issues raised by the petitioners before the Commission.

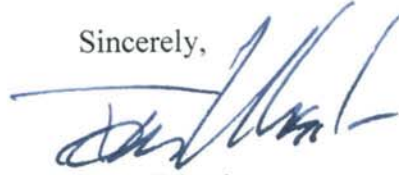
My own view is that the Commission should recognize that the Federal Government acting in its official capacity is not subject to the TCPA's restrictions, consistent with the recent Supreme Court decision and the statutory language of the TCPA. But a final decision will require a vote of the full Commission.

We recognize how important it is for Members of Congress to connect with their constituents, and I assure you that we are acting as quickly as we can. We will, of course, update any related public outreach materials once a decision is made on the order.

Page 2—The Honorable Robert E. Latta

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish extending from the end.

Tom Wheeler